April 18, 2012

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: *Connect America Fund,* WC Docket No. 10-90; *A National Broadband Plan for Our Future,* GN Docket No. 09-51; *Establishing Just and Reasonable Rates for Local Exchange Carriers,* WC Docket No. 07-135; *High-Cost Universal Service Support,* WC Docket No. 05-337; *Developing an Unified Intercarrier Compensation Regime,* CC Docket No. 01-92; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45; *Lifeline and Link-Up*, WC Docket No. 03-109

Dear Ms. Dortch:

On behalf of General Communication, Inc. ("GCI"), I write in response to mistaken factual assertions and other arguments that the Alaska Rural Coalition ("ARC") and its member Ketchikan Public Utilities ("KPU") presented in recent ex parte filings.[1] In trying to support its request for reconsideration of various aspects of the Federal Communications Commission's ("FCC" or "Commission") October 27, 2011, *Connect America Fund Report and Order*,[2] ARC has either failed to present accurate facts or has applied an unfounded interpretation of how the urban local rate floor would apply to GCI, were the Commission to do so. ARC also ignores the fact that if the FCC were to apply the rate floor to Competitive Eligible Telecommunications Carriers ("CETCs"), it should also reduce Incumbent Local Exchange Carrier ("ILEC") support

---

[1] *See* Ex Parte Notice, Shannon Heim, Counsel, Alaska Rural Coalition, to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 10-90 et al. (filed Apr. 16, 2012) ("ARC Ex Parte"); Ex Parte Notice, Shannon Heim, Counsel, ARC, to Marlene Dortch, Secretary, FCC, WC Docket Nos. 10-90 et al. (filed Apr. 11, 2012); Ex Parte Notice, Shannon Heim, Counsel, ARC, to Marlene Dortch, Secretary, FCC, WC Docket Nos. 10-90 et al. (filed Mar. 14, 2012); Ex Parte Notice, Ketchikan Public Utilities, WC Docket Nos. 10-90 et al. (filed Feb. 22, 2012); Ex Parte Notice, Steven Silver, Counsel, ARC, to Marlene Dortch, Secretary, FCC, WC Docket Nos. 10-90 et al. (filed Mar. 26, 2012).

[2] *Connect America Fund; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Lifeline and Link-Up; Developing an Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; A National Broadband Plan for Our Future; Universal Service Reform – Mobility Fund,* Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd. 17663, FCC 11-161 (2011) ("*CAF Order*").

by the same amount as the CETC's support in order to avoid subsidizing a carrier for charging a *higher* rate than its competitors. ARC further incorrectly states that CETCs receive "identical" support to ILECs under the Remote Alaska provisions of the *CAF Order*. Finally, ARC, without any basis, states that its proposed two-year delay in implementation of any rate-of-return reforms in Alaska could be paid for utilizing support paid to AT&T. In fact, its proposal would have a positive budget "score" by predictably increasing USF disbursements.[3]

1. ***Neither GCI's tariffed wireline basic local service rate, plus applicable fees, nor the local component of its "No Limits" bundle, plus applicable fees, falls below the Commission's local urban rate benchmarks.*** ARC attempts to manufacture the appearance of rates below the local urban rate benchmark by failing to include state subscriber line fees (referred to as the "Network Access Fee" or "NAF" in Alaska) and state universal service fees. The Commission made clear in paragraph 594 of the *CAF Order* that the rate floor is determined by a carrier's R-1 rate.[4] As shown in Exhibit A, with the addition of these rate elements in accordance with the Commission's rules,[5] GCI's lowest benchmark rate in a rate-of-return study area, using the standalone R-1 rate, is $14.95, substantially above the $10 July 1, 2012 rate floor.[6] Because of state-prescribed increases to the NAF, GCI anticipates that its standalone R-1 rate will be $15.49 as of July 1, 2013, exceeding the $14 rate floor that would be applicable at that time.[7] Any claims that GCI's R-1 rates would breach the rate floor are simply untrue.

To the extent that ARC's "analysis" is based on the allocated local portion of GCI's "No Limits" bundle of local and long distance service, its assertions that GCI will breach the 2012 rate floor are also unfounded. To compute the benchmark rate based on the local portion of the bundle (which, as explained below, is inconsistent with the rules), part 54.318(f) would require summing the $7.99 allocated local portion, plus a $4.25 NAF, plus $1.16 in projected state USF fees – for a total of $13.40 on July 1, 2012. Assuming the $7.99 allocation stays the same, with a 50 cent increase in the NAF to $4.75 and the same state universal service assessment percentage, GCI's benchmark would be $13.95 on July 1, 2013 – just shy of the $14 benchmark – but it

---

3 GCI does not respond herein to ARC's allegations about non-dominant interstate, interexchange middle mile pricing on United Utilities' TERRA-SW network because it is not relevant to the issues of application of the rate floor to CETCs or to ARC's request for an across the board two-year delay in the implementation of rate-of-return reforms in Alaska.

4 *CAF Order* at ¶ 594 ("all incumbent local exchange company recipients [of high cost support] must report their flat rate for residential local service to USAC so that USAC can calculate reductions in support levels for those carriers *with R1 rates* below the specified rate floor . . . .") (emphasis added).

5 47 C.F.R. 54.318.

6 *See* Exhibit A, showing GCI's urban rate floor comparison, including GCI's R-1 rates and the federal elements that are not included in the urban rate floor benchmark calculation, and Exhibit B, showing all rate elements, including federal rate elements that are not considered as part of the local urban rate floor calculation; *See also* general discussion of proper rate floor benchmark calculation in the *CAF Order* at ¶¶ 235-239.

7 *See id*.

would exceed the benchmark if the Alaska USF fee were to increase by as little as 0.4 percent, or if GCI increased its tariffed rate or allocated more towards the local portion of the bundled rate.[8]

However, even if reliance on the $7.99 allocated local portion of the "No Limits" bundle breached the 2012 rate floor (which it does not), nothing in the *CAF Order* or rule 54.318(f) indicates that the Commission intended to compute the rate floor with respect to allocated portions of bundled rates. All of the data discussed in paragraphs 235 and 236 of the *CAF Order* focused on standalone R-1 rates, and not on components of bundles, and Paragraph 594 specifically discusses reducing support for carriers with R-1 rates below the rate floor.[9] Moreover, use of the allocated component of a bundle is artificial because the consumer cannot buy just that local portion, but must purchase the entire bundle. In addition, allocations between services in a bundle can vary, thus making them ineffective benchmark tools. As an example, ARC member Matanuska Telephone Association ("MTA") offers its own $19.99 local/long distance bundle, but allocates $13.20 of the bundle price to local service.[10] Using the allocated portion of the bundle would reach disparate results for GCI and MTA even though they are both offering a similar package to end user consumers within the MTA study area. In any event, if the Commission were to decide that the rate floor should be calculated using allocated local portions of bundled rates, such a decision would be far reaching and affect all rate-of-return and price cap carriers – potentially pushing many more of them below the rate floor.

To attempt to buttress its arguments, ARC cites to a $10 promotional discount that GCI is offering through the end of 2012. Once again, however, there is no indication in the *CAF Order* that the Commission intended to include promotional discounts in the rate floor calculation, rather than simply basing that calculation on the standalone R-1 rate. As a primary matter, the Commission should not attempt to include promotional discounts in the rate floor calculation because of the administrative complexity of doing so. For all entities subject to the rate floor, it is important both that they be able to predict accurately what the rate floor will be, and it is important that USAC be able to determine the rate floor. Promotional discounts, by their nature, are added to and withdrawn from the market frequently. Moreover, attempting to capture promotional discounts would also mean attempting to capture "winback" discounts and other cases in which an individual consumer may receive a discount. A rate floor could not capture all of these variations in a competitive market and be knowable to both the ETC and USAC in real time. Again, in any event, the decision as to whether to include promotional discounts in the calculation of the rate floor affects all rate-of-return and price cap carriers – potentially pushing many more of them below the rate floor.

---

8 The Alaska USF fee is currently 9.5%, and a 9.9% AUSF fee would result in a benchmark rate of $14.

9 *See* n.4, *supra.*

10 *See* Matanuska Telephone Association, Long Distance Plans, attached as Exhibit C, showing a screen shot of http://www.mtasolutions.com/Phone/longdistance.php (last visited April 18, 2012); Letter from Robert Lindquist, Chief, Regulatory Commission of Alaska, to Carolyn Hanson, General Manager, Matanuska Telephone Association, Tariff Sheets, (Feb. 7, 2012) (Attached as Exhibit D).

Furthermore, although tariffed in GCI's local tariff, its promotional $10 discount applies to the customer's entire bill – the lowest of which on a standalone basis in a rate-of-return study area is $23.55. Thus, even with the $10 promotional discount, the rare customer that purchases a standalone local service still pays $13.55, in total – which is above $10. The inclusion of this $10 promotional discount in the local tariff is not required, and GCI could shift a portion of the promotion to its interstate rates to stay above the $10 rate floor. This again counsels that the Commission should stick with its decision to base the rate floor on R-1 rates, and not on bundles or promotions.

In addition, in the event that the Commission sought to capture bundles or promotional discounts in the rate floor calculation, for competitive neutrality it would need to include a wide range of discounts, including on other services offered by the ETC. For example, KPU provides a $10 per month discount on a customer's electric bill when the customer purchases wireline telephone, Internet access and television service through KPU.[11]

GCI would like to be clear, however, that it does not object to having wireline CETCs subject to the rate floor rule, provided that: (1) it is clear how the rate floor is to be determined (*i.e.,* including or excluding bundles and promotions) so that ETCs can plan their marketing in advance with knowledge of the impacts on USF support; (2) in the event that bundles and promotions are included, that discounts such as the electric bill discount are included; and (3) as discussed below, the lowest benchmark rate charged by any ETC in an ILEC study area is imputed to all subject ETCs (*i.e.* wireline) in that study area. As ARC acknowledges, applying the benchmark across wireless and wireline services presents greater complexity because of the added value of mobility and differences in mobile service, and thus the rate floor should not be applied to a CETC's wireless services at this time.

2. If a rate floor is applied to a CETC (as ARC suggests) and causes the CETC's support to be reduced, there is no reason to continue to pay full support to the ILEC, but instead the ILEC's support should also be reduced by a like amount per line served. Just as there is no reason for the Commission to pay support when an unsubsidized competitor will offer service without support, if the rate floor is applied to CETCs, there is no reason for an ILEC to receive full support for charging higher above-benchmark rates while a CETC's support is decremented. The CETC's lower rates should also be imputed to the ILEC for the purpose of applying the rate floor (and if the ILEC's rates were lower than the CETC's, the ILEC's rates should be applied to calculate the CETC's compliance with the rate floor). Any other rule would create the anomalous result of paying one competitor more in USF support because they failed to lower their rates to meet the competition. This is not a justifiable expenditure of USF support.

---

[11] KPU Telecommunications offers a "Triple Play" promotion advertising, "by choosing three of our Telecommunication services you automatically save 15% on your KPU bill!" and further offering, "You also save $10 on your Electric bill by purchasing all of your services from us!" Exhibit C, showing a screen shot of http://www.city.ketchikan.ak.us/public_utilities/kputel/Testimonials.html (last visited April 18, 2012); *See also* Exhibit D, showing a screen shot of http://www.city.ketchikan.ak.us/public_utilities/kputel/special.html (last visited April 18, 2012) ("Save $120 Every Year just by Combining KPU Services!").

3. ***The CAF Order does not provide for "identical support" to CETCs***.[12] ARC's assertion that the *CAF Order* creates a "two year stay on the phase down of identical support,"[13] is an incorrect distortion. ARC ignores that Remote Alaska CETC support is subject to a cap. USAC has already estimated that this cap is currently resulting in a more than six percent reduction in Remote Alaska CETC support. [14] That percentage reduction will only increase as the number of lines served by CETCs (wireless or wireline) increases in Remote Alaska. Rate of return ILECs are subject to no such cap. Moreover, rate of return ILECs are not subject to loss of support when they lose lines, as CETCs are. CETC support and ILEC support under the *CAF Order* are simply not "identical." Unlike GCI and other CETCs, rate-of-return ILECs will not experience the automatic 20 percent reduction in support for those service areas outside of Remote Alaska, as of July 1, 2012. Nor do rate of return carriers in such areas face the future elimination of all support that CETCs confront.. Even within Remote Alaska, current rules will eventually phase out all CETC support that is not distributed through the Mobility Funds – again a result not shared by rate-of-return carriers.

4. ***ARC's proposal for a two-year delay in implementation of RLEC reforms in Alaska is not budget neutral.*** Contrary to ARC's claim, the "Dobson" funds (*i.e.*, CETC support being received by AT&T) would not offset the additional support that would be distributed through a two-year delay in the implementation of the rate-of-return changes.[15] ARC overlooks or ignores the fact that the "Dobson" funds are already subject to phase-out commencing July 1, 2012.

ARC has not provided any estimate of the additional support that would be disbursed through the two-year delay it seeks. It is, however, predictable that there would be additional support because ARC would delay the implementation of limits on corporate operations expenses, limits on reimbursable capital and operating costs, and elimination of the safety net additive.[16] ARC does not explain how it would "reappropriate" the declining stream of "Dobson" funds to offset these additional support amounts. However, unless ARC is proposing to accelerate the phase out of the "Dobson" support uniquely in Alaska, the only result could be to increase total USF disbursements.

---

[12] *See* ARC ex parte at 3-4.

[13] ARC ex parte at 3.

[14] *See* USAC High Cost Support Projected by Study Area, Second Quarter, 2012, http://www.usac.org/about/tools/fcc/filings/2012/Q2/HC01-%20High%20Cost%20Support%20Projected%20by%20State%20by%20Study%20Area%20-%202Q2012.xls. The current reduction would likely be largely eliminated if the Commission granted GCI's petition for reconsideration with respect to the initialization of Remote Alaska cap, but the cap would still constrain CETC support going forward in a manner that does not apply to the ILECs. *See* GCI Petition for Reconsideration at 8-11.

[15] *See* ARC ex parte at 2-3.

[16] *See* ARC ex parte at 2.

ARC's proposal stands in stark contrast to GCI's modified proposal to include all CETCs in the Remote Alaska mechanism – including those not certifying as serving covered locations (*i.e.* the "Dobson funds"). As GCI has explained, its proposal has no predictable impact – positive or negative – on the budget "score" underlying the *CAF Order*.[17]

* * *

Please contact me if you have any questions.

Sincerely,

John T. Nakahata
Counsel to General Communication Inc.

cc: Michael Steffen
Christine Kurth
Angela Kronenberg
Sharon Gillett
Carol Mattey
Patrick Halley
Amy Bender
Ted Burmeister
Joseph Cavender

[17] *See* Ex Parte Notices, John Nakahata, Counsel, General Communication, Inc., to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 10-90 et al. (filed Apr. 13, 2012). As GCI also explained, its proposal to include all CETCs in the Remote Alaska mechanism will create better incentives for investment in service to unserved and underserved communities. *See id.*